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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,717	04/10/2001	Bernd Schweikart	01-248	8440

7590 10/03/2002
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EXAMINER

LORENZO, JERRY A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 10/03/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

Applicant(s)

09/829,717

SCHWEIKART, BERND

Examiner

Art Unit

Jerry A. Lorengo

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

(1)

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 04/11/2000. It is noted, however, that applicant has not filed a certified copy of the 10017945.2 application as required by 35 U.S.C. 119(b).

(2)

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. Claim 1, for example, discloses a profiled window section but fails to set forth a single method step used in its production.

Regarding claims 1, 3, 6, 7, 9 and 10, the phrase "especially" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 1 is rendered indefinite by the term "etc." because the term renders the claim open-ended as to unrecited properties of the window section.

Claims 2-14 are likewise rejected due to their dependence upon rejected base claim 1.

Claims 1-14, in general are replete with grammatical, syntactic and antecedent basis inconsistencies, which render the claims exceedingly difficult to understand and treat upon the merits.

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(3)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,994,087 to Koeppen in view of U.S. Patent No. 5,361,476 to Leopold.

Regarding applicant claim 1, Koeppen discloses a method of making a frame member comprising the steps of:

- (1) Providing an elongate wooden member 2;
- (2) Laminating, as per applicant claim 2, a vinyl facing (sheathing) material 1 to all outside surfaces of the wooden member 2;
- (3) Profiling the elongate wooden member 2 with grooves 3 and 4;
- (4) Cutting mitres 5 into the wooden member 2 to produce, as per applicant claim 7, individual frame sections; and
- (5) Applying glue to each mitre cut 5 to securely hold the wooden member 2 in the form of a frame (Figures 1-4; column 1, line 7 to column 2, lines 22).

Although Koeppen discloses a method of forming a frame member, he does not specifically disclose that the frame is used a window frame. Nonetheless, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize the method of

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Koeppen in forming a window frame motivated by the fact that Leopold discloses that window frames are produced in a similar manner, i.e., providing an elongate member, providing the member with mitre cuts and securing in the form of a window frame (Figures 3, 4 and 6).

Regarding applicant claims 3-5, the vinyl sheathing 1 of Koeppen comprises a plastic provided at the visible surfaces of the wood member 2. Although he does not specifically disclose that it is attached thereto via an adhesive, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize an adhesive motivated by the fact that lamination is generally understood to utilize an adhesive or glue to maintain contact between the lamina.

Although Koeppen does not specifically disclose that a protective film is applied to the vinyl sheathing 1, as per applicant claim 6, it would have been obvious to one of ordinary skill in the art at the time of invention to do so motivated by the fact that protective coatings are well known in the art and used to provide abrasion resistance to underlying decorative substrates.

The references combined above disclose a method of forming window sections comprising the steps of: providing an elongate wooden member; laminating a plastic sheathing material to all outside (visible) surfaces of the wooden member; profiling the elongate wooden member with grooves; cutting mitres into the wooden member to produce individual frame sections; and applying glue to each mitre cut to securely hold the wooden member in the form of a frame. Although they disclose applying glue to the mitre (bevel) cuts to secure the frame, they do not specifically disclose, as per applicant claims 8-14, the use of dovetails, dowel holes, dowel pins and connecting elements to secure the mitred (beveled) section secure.

Nonetheless, it would have been obvious to one of ordinary skill in the art at the time of invention to do so motivated by the fact that dowels, dowel holes, dovetails and cooperating connecting elements are well known in the art and the skilled artisan would have appreciated that their use would provide increased strength over a glued joint alone. Furthermore, the placement of the dowel holes perpendicular to the face of the mitre (bevel) cut for subsequent occupation by wooden dowels is a well-known method of wood joinery.

(4)

References C-H on Form PTO-892 have been cited by the examiner as having particular relevance to the subject matter at hand.

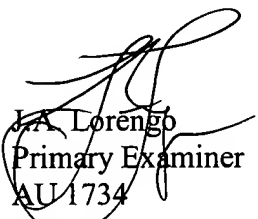
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(5)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry A. Lorengo whose telephone number is (703) 306-9172. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7115 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


J.A. Lorengo
Primary Examiner
AU 1734
September 27, 2002